

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5003 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

RAMESH NARAYAN PATIL

Versus

P. G. J. NAMPOOTHIRI

Appearance:

MR TS NANAVATI for Petitioner

MR RM CHAUHAN AGP for the Respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 11/08/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 29-1-98 passed by the Police Commissioner, Ahmedabad City, under Section 3 (1) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the Act") has challenged the legality and validity of the said order of his detention. Suffice it to say that the detaining authority has placed reliance on three

criminal cases registered against him two of which were pending before the Court and one was under investigation. Over and above these criminal cases, further reliance is also placed on the statements of four witnesses for the alleged incident which took place on 15-11-98 and 8-11-98 wherein it is alleged that the concerned witnesses were beaten by the petitioner and his associate and were asked to hand over the ornaments and in fact robbed them for Rs.500/- and Rs.700/respectively . On both the occasions people gathered to watch the incident but as the petitioner and his associates rushed towards the crowd, people started running helter-skelter and an atmosphere of fear and terror was created and an even tempo of life was disturbed.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that even if the allegations made against the petitioner are accepted as true for the sake of arguments, the same at best can be treated as breach of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type . Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a dangerous person is also visited . The order of detention is therefore liable to be quashed and set aside.

In the result, this petition is allowed. The order of detention dated 29-1-98 is quashed and set aside. The detenu Ramesh Narayan Patil is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs. D.S.permitted.

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